

REMARKS

Reconsideration of the above-identified application in view of the present amendment is respectfully requested. By the present amendment, claim 20 has been amended. Claims 1-26 are pending in the application. Claims 1-10 are rejected and claims 20-23 are objected to. Claims 11-19 and 24-26 are allowed. Applicants kindly acknowledge approval of the drawing amendments set forth in the amendment of August 11, 2005.

Claim 20 has been amended to eliminate the repeated limitations, thus overcoming the objection set forth in the Office Action. Therefore, allowance of claims 20-23 is respectfully requested.

In the prior amendment of August 11, 2005, the specification was amended to perfect a claim of domestic priority from co-pending U.S. Patent Application Serial No. 10/301,966, filed November 22, 2002. According to the Office Action of October 24, 2005, the amendment was not entered because, under 37 CFR 1.78, the claim was not timely made. A petition under 37 CFR 1.78(a) to accept an unintentionally delayed benefit claim has been filed concurrently with this amendment. Per a telephone conversation with Examiner Dunn on April 19, 2006, the petition is currently held up in the Office of Petitions at the USPTO and will be acted on in 1-2 weeks.

Upon grant of the petition, the benefit claim will be entered and the present application will antedate Bakhsh et

al. (US 2004/0100074). As a result, Bakhsh et al. is not prior art against the present application. Therefore, applicants respectfully request that the rejection of claims 1-5 and 8-10 under 35 U.S.C. 102(b) as being anticipated by Bakhsh et al. should be withdrawn. Also, the rejection of claims 4 and 9 as being obvious over Kithil (US 5,602,734) in view of Bakhsh et al. should be withdrawn.

In the previous amendment, claim 1 was amended to recite that the first chamber when inflated is "positioned against" a surface of the instrument panel presented generally toward the vehicle occupant. To distinguish claim 1 over Kithil, it was pointed out that the tether 76 taught by Kithil purposefully restricts deployment of the air bag and prevents the air bag from inflating to a position against the surface of the instrument panel facing the occupant. Clearly, from the context in which the "positioned against" language added to claim 1 was used, from the arguments in support of the amended claim, and from the teachings in the specification of the subject application, the word "positioned against" is meant to mean that the windshield curtain touches or engages the instrument panel.

In spite of this, in the Office Action, the Examiner adopts an alternate definition of the word "against," stating that it means "directly opposite" or "facing." The Examiner uses this interpretation to reject claim 1 over Kithil, in spite of the fact that Kithil does not teach an air bag that touches the instrument panel and further in spite of the fact

that Kithil teaches purposefully restricting inflation of the air bag, which prevents the air bag from being positioned against the instrument panel.

Taken out of context, the word "against" may have any of a variety of meanings. In claim 1, however, the word "against" has a specific context, i.e., that the first chamber, when inflated, is "positioned against a surface of the instrument panel." In this specific context, not to mention in the context of the description and drawings in the present invention, the meaning that should be afforded the word "against" is clear.

In adopting the current position, the Examiner effectively avoids addressing the fact that the prior art of record does not teach or suggest a windshield curtain that, when inflated, is positioned against a surface of an instrument panel presented generally toward the vehicle occupant. Rather than searching for art that teaches this limitation or allowing the claim, the Examiner chose to adopt a definition that suits the art at hand even though the definition is not consistent with the clear intent of the Applicants. There is absolutely nothing in the record to indicate or create the impression that the word "against" is meant to mean "directly opposite" or "facing."


Based on the above, Applicants respectfully submit that Kithil does not teach or suggest a windshield curtain that, when inflated, is positioned against a surface of the instrument panel presented generally toward the vehicle

occupant. Kithil does not teach or suggest all of the features recited in claim 1 and, accordingly, claim 1 should be allowed. Claims 2-10 depend from claim 1 and should be allowed as depending from an allowable claim.

In view of the foregoing, it is respectfully submitted that the above identified application is in condition for allowance, and allowance of the above-identified application is respectfully requested.

Please charge any deficiency or credit any overpayment in the fees for this amendment to our Deposit Account No. 20-0090.

Respectfully submitted,



Matthew M. Shaheen  
Reg. No. 45,367

Phone: (216) 621-2234

Fax: (216) 621-4072

**Customer No.: 26294**